

EXHIBIT 1

INTRODUCTION

On October 26, 1998, Respondent Freedom and Free Enterprise PAC (hereafter the “PAC”) contributed \$40,000 to the “Lungren Committee for Common Sense Conservatism,” just prior to the November 3, 1998, election. Due to the size of the contribution, the PAC thereby became a “major donor” committee, which was required by the Political Reform Act (the “Act”)¹ to file campaign statements reporting the contribution. On November 2, 1998, the PAC made a \$1,000 contribution to the “Tim Leslie for Lieutenant Governor” committee. Because both contributions were made within the “late contribution period” prior to an election, Respondents were required to report the contributions in late contribution reports, that were supposed to have been filed within 24 hours after the contributions were made. Respondents were also required to report the contributions in a major donor statement, that was supposed to have been filed by January 31, 1999, to report contributions made during the period July 1, 1998-December 31, 1998. Respondents failed to file these required statements in a timely manner, in violation of section 84200, subdivision (b), and section 84203, subdivision (b) of the Act.

For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act are stated as follows:

- COUNT 1:** On or about November 2, 1998, Respondents Freedom and Free Enterprise PAC, and its treasurer, Thomas P. Kemp, failed to timely file a major donor campaign statement for the reporting period July 1, 1998-December 31, 1998, in violation of Government Code section 84200, subdivision (b).
- COUNT 2:** On or about October 26, 1998, Respondents Freedom and Free Enterprise PAC, and its treasurer, Thomas P. Kemp, failed to file a late contribution report within 24 hours of making a late contribution of \$40,000, in violation of Government Code section 84203, subdivision (b).
- COUNT 3:** On or about November 2, 1998, Respondents Freedom and Free Enterprise PAC, and its treasurer, Thomas P. Kemp, failed to file a late contribution report within 24 hours of making a late contribution of \$1,000, in violation of Government Code section 84203, subdivision (b).

¹ The Political Reform Act is contained in sections 81000 through 91014 of the Government Code. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission, enacted pursuant to the provisions of the Act, are contained in sections 18000, *et seq.*, of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to assure that receipts and expenditures in election campaigns be fully and truthfully disclosed, in order that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

Count 1-Major Donor Statement

One feature of the system, found at section 82013, subdivision (c), is that any person who makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year, qualifies as a committee. As a committee, this “major donor” is required by the Act to file campaign statements.

Section 84200, subdivision (b) requires any person who qualifies as a major donor committee under section 82013, subdivision (c), to file semi-annual campaign statements each year, no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if the person has made contributions or independent expenditures, during the six-month period before the closing date for the statement.

Counts 2 and 3-Late Contributions Reports

Section 84203 requires every committee that makes a late contribution, as defined in section 82036, to file a late contribution report within twenty-four (24) hours after making the contribution. Section 82036 defines a late contribution as any contribution that totals one thousand dollars (\$1,000) or more, and is made to a candidate, a controlled committee, or a primarily formed committee, during the period before an election, but after the closing date of the last campaign statement required to be filed before the election.

Every committee that makes a late contribution must report it by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery, within 24 hours of the time it is received. (Government Code section 84203, subdivision (b).) Late contribution reporting serves an important function by informing voters of contributions received during the crucial last two weeks prior to an election.

Treasurer Liability

Under section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee’s treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sec. 83116.5, and sec. 91006.)

SUMMARY OF THE FACTS

The “Lungren Committee for Common Sense Conservatism” received a \$40,000 contribution from Respondents on October 26, 1998.

Count 1: Failure to file a semi-annual major donor statement by January 31, 1999, in violation of section 84200, subdivision (b) of the Government Code.

Respondents failed to timely file a major donor statement, disclosing their \$40,000 contribution to the “Lungren Committee for Common Sense Conservatism.” By failing to file this report in a timely manner, Respondents violated section 84200, subdivision (b) of the Government Code.

Count 2: Failure to file a late contribution report within 24 hours of making the contribution, in violation of section 84203, subdivision (b) of the Government Code.

Respondents failed to timely file a late contribution report, disclosing their \$40,000 contribution to the “Lungren Committee for Common Sense Conservatism.” By failing to file this report in a timely manner, Respondents violated section 84203, subdivision (b) of the Government Code.

Count 3: Failure to file a late contribution report within 24 hours of making the contribution, in violation of section 84203, subdivision (b) of the Government Code.

Respondents failed to timely file a late contribution report, disclosing their \$1,000 contribution to the “Tim Leslie for Lieutenant Governor” committee. By failing to file this report in a timely manner, Respondents violated section 84203, subdivision (b) of the Government Code.

ADDITIONAL INFORMATION

Respondent Freedom and Free Enterprise PAC, a non-federal PAC located in Washington, D.C., was the leadership PAC for former Representative Jack Kemp. According to Federal Election Commission records, the PAC was formed on February 18, 1997 and terminated on September 1, 1999. Jack Kemp was the PAC’s Chairman, Thomas P. Kemp, Jack Kemp’s brother, was the PAC’s Treasurer, and Rick Ahearn was the PAC’s Executive Director.

Mr. Ahearn stated to Fair Political Practices Commission Investigator Leon Nurse-Williams that the campaign filing requirements for the PAC were delegated to the consulting firm of Huckaby Davis and Associates, located in Alexandria Virginia. Keith Davis, Vice-President of Huckaby Davis and Associates, stated to Investigator Nurse-Williams that an

employee of his firm, Mr. James Reed, was appointed to the position of assistant treasurer of the PAC to allow Huckaby Davis, the managing firm, to sign and file campaign forms for the PAC. James Reed told Commission investigators that he recalls having a great deal of contact with the California Secretary of State's Office and that he is sure the proper statements were filed. Reed said that because he no longer works for Huckaby Davis he does not have copies of the filed statements but the statements should still be contained in the files at Huckaby Davis.

Keith Davis, at Huckaby Davis, stated that James Reed left the firm's employ over two years ago under less than favorable circumstances. Davis stated that, while he is certain all efforts were made to file the necessary campaign statements with the California Secretary of State, he does not have copies of the statements in his files. Mr. Davis stated that he would personally see to it that all the necessary statements are filed. Within one week of Mr. Davis making that commitment to the Enforcement Division, all the necessary statements were filed with the appropriate filing officers.

CONCLUSION

This matter involves one count of violating section 84200, subdivision (b), and two counts of violating section 84203 of the Act. Each count carries a maximum administrative penalty of Two Thousand Dollars (\$2,000.00).

Respondent Freedom and Free Enterprise PAC was a professionally operated campaign committee which made a large late contribution to a California gubernatorial candidate and a smaller late contribution to a candidate for Lieutenant Governor, and then failed to timely report these contributions. When contacted by the Enforcement Division the principals in the PAC were cooperative and acted promptly to file the delinquent statements. These facts justify imposition of the agreed upon administrative penalty of Three Thousand Dollars (\$3,000.00).